

**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

HUNTINGTON DIVISION

UNITED STATES OF AMERICA

v.

CIVIL ACTION NO. 3:23-00336
CRIMINAL ACTION NO. 3:18-00228

ERIC MOORE BELLAMY
also known as “Jersey”

MEMORANDUM OPINION AND ORDER

This action was referred to the Honorable Omar J. Aboulhosn, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). ECF No. 72. The Magistrate Judge has submitted findings of fact and recommended that the Court deny Movant's Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody (ECF No. 68) and remove this matter from the Court's docket. No objections to the Magistrate Judge's findings and recommendation have been filed.¹

The Court additionally has considered whether to grant a certificate of appealability. *See* 28 U.S.C. § 2253(c). A certificate will not be granted unless there is “a substantial showing of the denial of a constitutional right.” *Id.* at § 2253(c)(2). The standard is satisfied only upon a showing


¹ Objections to the Proposed Finding and Recommendation (“PF&R”) were initially due by May 18, 2023 if the PF&R was served electronically, and by May 22, 2023, if the PF&R was served by mail. ECF No. 72. While no objections were filed within either timeframe, on May 5, 2023, the Court received a purported “exhibit” from Mr. Bellamy. ECF No. 74. Out of an abundance of caution, the Court directed Mr. Bellamy to file any Objections or clarifications of his Exhibit's applicability to the PF&R by July 5, 2023. ECF No. 76. Mr. Bellamy has not filed any clarification or objection to the PF&R.

that reasonable jurists would find that any assessment of the constitutional claims by this Court is debatable or wrong and that any dispositive procedural ruling is likewise debatable. *Miller-El v. Cockrell*, 537 U.S. 322, 336-38 (2003); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *Rose v. Lee*, 252 F.3d 676, 683-84 (4th Cir. 2001). The Court concludes that the governing standard is not satisfied in this instance. Accordingly, the Court **DENIES** a certificate of appealability.

The Court accepts and incorporates herein the findings and recommendation of the Magistrate Judge and **DENIES** Movant's Motion (ECF No. 68) and **REMOVES** this matter from the Court's docket, consistent with the findings and recommendation.

The Court **DIRECTS** the Clerk to forward copies of this written opinion and order to all counsel of record, and any unrepresented parties.

ENTER: July 31, 2023



ROBERT C. CHAMBERS
UNITED STATES DISTRICT JUDGE